IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 5952 OF 2006

Dated : June 07, 2007

Between:

P.Kanna Rao and another

Petitioner

AND

The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad and others

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 5952 OF 2006

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking to quash the order dated 18.12.2004 in OA

No. 1133 of 2004 passed by the Central Administrative Tribunal, Hyderabad, and consequently to direct the respondents to absorb the petitioners as Commission Vendors, the petitioners filed this writ petition.

The O.A. was filed assailing the order dated 11.10.2004 whereby the appointment of the petitioners as Commission Vendors was terminated on medical grounds.

The petitioners worked as Commission Vendors on Vijayawada Railway Station from 1964 to 1982. They were again appointed as such on temporary basis on the condition that they shall not absent themselves from duty and that such an appointment shall not confer any right on them for regular appointment in future. While so, the petitioners were sent for Medical Examination in B-1 category of posts and they were medically examined for the post of Trackman B-1 by Senior Medical Supervisor, who found them unfit for such appointment and in handwriting, it was written that they are *unfit for all categories* and thus the impugned order came to be passed.

The Tribunal having regard to the contentions raised by the respective parties and in view of the doubt

entertained by it in respect of the superimposition of remarks, in handwriting, that the petitioners are *unit for all categories*, directed re-examination of the petitioners for B-1 Trackman Category within a period of two months, by a Senior Medical Superintendent other than the one who had conducted such examination earlier and in the event if the petitioners were found fit, the Tribunal directed that the petitioners shall be absorbed as Trackman B-1.

The learned counsel for the respondents herein contended that in compliance of the directions issued by the Tribunal, they have issued notice twice to the petitioners for undergoing medial examination afresg, but they have not responded. It is further submitted by the learned counsel for the respondents that the post of Commission Vendors has been abolished and catering has been taken over by the Indian Railways Catering Tourism Corporation (IRCTC) and, therefore, no relief can be granted to the petitioners in this writ petition.

A perusal of the prayer in this writ petition goes to show that the petitioners have not sought the relief, which they prayed in the Original Application before the Tribunal. In pursuance of the relief which the petitioners sought in the Original Application, the Tribunal directed the petitioners to undergo medical examination afresh, in

pursuance of which the respondent have twice issued notices to the petitioners to appear for the Medical Examination, but the petitioners did not attend. That apart, the post of Commissioner Vendors is no more available, inasmuch as and the catering has been taken over by Indian Railways Catering Tourism Corporation. As such there is no cause of action that survives for the petitioner. In that view of the matter, we do not find any illegality in the order impugned herein. Consequently, the Writ Petition fails, being devoid of merits, and is accordingly dismissed. No order as to cost.

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T.MEENA KUMARI, J.

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G.CHANDRAIAH, J.

June 07, 2007
MAS